

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GARY LABARBERA, LAWRENCE KUDLA,  
THOMAS GESUALDI, PAUL GATTUS,  
THEODORE KING, CHESTER BROMAN,  
FRANK FINKEL, JOSEPH FERRARA, as  
Trustees and Fiduciaries of the  
Local 282 Welfare, Pension, Annuity,  
Job Training, and Vacation and Sick  
Leave Trust Funds,

Plaintiffs,

against

HERITAGE TRUCKING, INC.,

ORDER ADOPTING MAGISTRATE  
REPORT AND RECOMMENDATION

04-CV-3820 (JS) (WDW)

Defendant.

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Appearances:

For Plaintiff: Elise S. Feldman, Esq.  
Friedman & Wolf  
1500 Broadway, Suite 2300  
New York, New York 10036

For Defendants: No Appearance

SEYBERT, District Judge:

Upon review of the Report and Recommendation of  
Magistrate Judge William D. Wall, dated August 9, 2005, to which no  
party has objected, the Court hereby ADOPTS the Report and  
Recommendation in its entirety.

Judge Wall recommended that the amount of a default  
judgment be determined after Defendant, Heritage Trucking, Inc.  
("Defendant") submits for audit the below-listed documents within  
thirty (30) days of the date of this Order: for the period February  
9, 2001 to the present to the extent that these records have not

already been produced, all payroll records, payroll tax records, business tax returns, truck hiring records, individual earnings card and/or time records, weekly payroll journals, cash disbursement records, general ledgers, Forms 941, 941A, and NYS-45's W-2's, W-3's, 1099's, 1096's, cancelled checks, Forms 1120 or 1120s, and vendors invoices. If Defendant fails to produce these records, Judge Wall recommended that the default judgment be entered in the amount of \$21,253.45, plus interest as set forth in paragraph 3 of the Wherefore clause of the Feldman Declaration, and attorney fees and costs in the amount of \$549.30.

Judge Wall ordered that a copy of the Report and Recommendation be served on Defendant and that objections be filed within 10 days after said service or the right to appeal would be waived. The docket sheet indicates that Plaintiff effectuated service of the Report and Recommendation on August 11, 2005. In addition, the docket sheet indicates no objections were filed; all objections are hereby deemed to have been waived.

Accordingly, the Court ADOPTS the Report and Recommendation in its entirety.

SO ORDERED

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York  
October 20, 2005